

REMARKS

By this Amendment, Applicant cancels claims 109, 111, 117, 122, 129, 134, 183, 193, 200, and 205, without prejudice or disclaimer. Claims 1-108, 110, 112-116, 118-121, 123-128, 130-133, 135-182, 184-192, 194-199, 201-204, and 206-214 are therefore currently pending. In the Office Action, pending claims 18-21, 52-59, 68, 69, 92-95, 124-128, 130, 131, 142, 143, 165-168, 195-199, 201, 202, 213, and 214 were withdrawn from consideration as allegedly being drawn to a nonelected species. As will be explained below, each of independent claims 1, 71, and 144, from which the withdrawn claims respectively depend, are allowable. Therefore, the withdrawn claims should be rejoined and also allowed.

By this Amendment, Applicant has amended claims 71, 73-75, 110, 112, 113, 118-121, 123, 132, 144, 182, 184, 185, 189-192, and 194 to clarify the claimed subject matter. No new matter has been introduced.

In the Office Action, claims 1, 4-17, 22-28, 36-51, 60-67, 70-76, 78-91, 96-101, 109-123, 132-141, 144-149, 151-164, 169-174, 182-194, and 203-212 were rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 4,893,956 to Wojcik et al. ("Wojcik").

Wojcik discloses a packaging for medicaments. The packaging includes a cup 10 that holds a medicament 18 in its bottom surface 14. Wojcik discloses a sponge-like pad 38 that is housed in the cup 10 and has a handle structure 42, 44 glued to a surface of the pad 38. Opposite the surface to which the handle structure 42, 44 is glued, an impermeable barrier disk 22 is adhered to the pad 38. The impermeable barrier disk 22 is in contact with the medicament 18 when the pad 38 is placed in the cup 10. A

removable cover 46 lies over the handle structure 42, 44 and is glued onto the top surface of a flange 50 of the cup 10. Upon removal of the cover 46, the pad 38 decompresses and the handle 44 lifts upright. Wojcik further explicitly states that “[i]nasmuch as the bottom pad cover [22] is **non-absorbent** the ointment cannot penetrate the sponge body and slides easily on the skin of the user. Furthermore, the impermeability of the bottom [disc] **conserves the product so that on the average about three applications can be had.**” (Col. 2, line 66 through col. 3, line 3; emphasis added.)

Thus, contrary to the assertion in the Office Action, Wojcik fails to disclose or otherwise suggest each and every aspect of claim 1. For example, Wojcik neither discloses nor otherwise suggests a device for applying a product that comprises, among other things, an application member which, when uncompressed, is “capable of being loaded with substantially all of an amount of product that the device is capable of containing,” as recited in claim 1. Rather, as discussed above, Wojcik explicitly teaches that the disk 22 is loaded with substantially less than all of the medicament contained in the cup 10 so that at least three applications of product can be made. Significantly, the Examiner has not explained in the Office Action how the Wojcik device meets the above-quoted recitation of claim 1.

Further, Wojcik neither discloses nor otherwise suggests a device for applying a product that comprises, among other things, “an application member attached to the second portion,” as recited in claims 71 and 144. In the Office Action, the Examiner has equated the cover 46 of Wojcik with Applicant’s recited “second portion.” However,

neither the handle structure 42, 44 nor the pad 38 of Wojcik is attached to the cover 46. Indeed, the Examiner has not asserted otherwise in the Office Action.

For at least these reasons, the claim rejection based on Wojcik should be withdrawn.

Also in the Office Action, all of the pending claims were rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 4,896,768 to Anderson ("Anderson").

Anderson discloses an anti-bacterial and anti-viral presaturated wipe product. Referring to Figs. 1-3 and 7, Anderson discloses the product including a first layer of packaging material 12, a second layer of packaging material 16, and a presaturated pad 14 secured to the second layer 16. Anderson further discloses the first layer 12 and the second layer 16 being heat sealed along edges 18, 20, and 22. At col. 3, lines 24-33, Anderson discloses that pad 14 can be constructed of any suitable material, including, rayon, cotton, Dacron and the like, and preferably a nonwoven material.

Anderson does not disclose or otherwise suggests a device for applying a product that comprises, among other things, an "application member being at least partially compressible and configured such that, when the device is in the closed position, the application member is at least partially compressed inside the substantially closed reservoir," as recited in each of independent claims 1 and 144, or an "application member being at least partially compressible and configured to be . . . at least partially compressed inside the substantially closed reservoir," as recited in independent claim 71. Anderson contains no disclosure whatsoever regarding either the pad 14 being compressible or being configured to be at least partially compressed inside the substantially closed reservoir. The Examiner's assertions at page 3 of the Office Action

that the pad 14 disclosed by Anderson satisfies the above-quoted limitations of claims 1, 71, and 144 are conclusory and the Examiner has pointed to no disclosure in Anderson, either explicit or otherwise, to support those assertions. Should the Examiner continue to maintain the claim rejection based on Anderson, Applicant requests that the Examiner set forth specific portions of Anderson that support the assertion that Anderson teaches the above-quoted recitations of claims 1, 71, and 144, respectively.

For at least the above reasons, the claim rejection based on Anderson should be withdrawn.

Claims 2-70, 72-108, 110, 112-116, 118-121, 123-128, 130-133, 135-143, 145-182, 184-192, 194-199, 201-204, and 206-214 depend either directly or ultimately from one of claims 1, 71, and 144, respectively, and therefore are patentable for at least the same reasons each of claims 1, 71, and 144 is allowable. In addition, at least some of these dependent claims recite unique features and combinations which are neither taught nor suggested by the cited art and therefore at least some also are separately patentable.

Applicant respectfully requests the withdrawal of the outstanding rejections, the rejoinder of the withdrawn claims, and the timely allowance of claims 1-108, 110, 112-116, 118-121, 123-128, 130-133, 135-182, 184-192, 194-199, 201-204, and 206-214.

The Office Action contains various characterizations and assertions regarding Applicant's claims and the cited art with which Applicant does not necessarily agree. To the extent Applicant has not specifically addressed those characterizations and assertions, Applicant declines to subscribe to the same.

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Please grant any extensions of time required to enter this Amendment and charge any additional required fees to our Deposit Account No. 06-0916.

Respectfully submitted,

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